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UNCLAS SECTION 01 OF 03 GENEVA 002617

SIPDIS

SENSITIVE

PASS USTR FOR GRIER

E.O. 12958: N/A

TAGS: ETRD ECON WTRO WTO

SUBJECT: WTO GOVERNMENT PROCUREMENT AGREEMENT MEETINGS
DURING THE WEEK OF OCTOBER 10, 2005

REFTEL: STATE 327601

SENSITIVE BUT UNCLASSIFIED NOT FOR INTERNET DISTRIBUTION

11. (U) SUMMARY AND BACKGROUND: DURING THE WEEK OF OCTOBER 10, 2005, THE U.S. DELEGATION, LED BY JEAN HEILMAN GRIER, SENIOR PROCUREMENT NEGOTIATOR, USTR, AND INCLUDING JOHN LIUZZI, DEPARTMENT OF COMMERCE, AND ROBERT KASPER, U.S. MISSION TO THE WTO, PARTICIPATED IN FORMAL AND INFORMAL MEETINGS OF THE WTO GOVERNMENT PROCUREMENT COMMITTEE (COMMITTEE). THE FOCUS OF THE COMMITTEE'S WORK WAS THE REVISION OF THE 1994 GOVERNMENT PROCUREMENT AGREEMENT (GPA) TEXT. DESPITE SUBSTANTIAL PROGRESS ON THE REVISION DURING THE WEEK, DIFFERENCES REMAIN (SOME OF WHICH ARE SIGNIFICANT) ON A NUMBER OF PROVISIONS. IT APPEARS THE COMMITTEE WILL NOT MEET ITS GOAL OF REACHING PROVISIONAL AGREEMENT ON THE NON-MARKET-ACCESS RELATED PROVISIONS OF THE GPA BY THE HONG KONG MINISTERIAL. AT THE FORMAL COMMITTEE MEETING, THE GOVERNMENT OF ISRAEL INFORMED THE COMMITTEE THAT IT WILL AGAIN SEEK AN EXTENSION OF ITS CURRENT LEVEL OF OFFSETS, AND THE GOVERNMENT OF JORDAN REPORTED ON THE STATUS OF ITS PREPARATION OF A REVISED MARKET ACCESS OFFER. THE U.S. DELEGATION ALSO PARTICIPATED IN A QUAD MEETING ON OCTOBER 10 AND HELD SEVERAL BILATERAL MEETINGS. THE U.S. DELEGATION MET WITH ISRAEL ON ITS OFFSETS REQUEST, CONSULTED WITH JORDAN ON THE STATUS OF ITS ACCESSION TO THE GPA, CONFERRED WITH THE EC ON POTENTIAL MEANS OF MOVING FORWARD ON TAIWAN'S ACCESSION TO THE GPA, DISCUSSED CHINA'S ACCESSION TO THE GPA WITH A CHINESE DELEGATE, AND FOLLOWED-UP WITH JAPAN ON A PROCUREMENT ISSUE INVOLVING JAPAN RAILWAY KYUSHU. THE NEXT SCHEDULED COMMITTEE MEETINGS ARE CURRENTLY SET FOR THE WEEK OF FEBRUARY 6, 2006. THE U.S. DELEGATION ALSO HELD INITIAL EXPLORATORY DISCUSSIONS WITH SWITZERLAND ON THE POTENTIAL NEGOTIATIONS OF A U.S. - SWITZERLAND FREE TRADE AGREEMENT.
END SUMMARY.

QUAD MEETINGS

12. (SBU) THE U.S. DELEGATION PARTICIPATED IN A QUAD MEETING ON OCTOBER 10, 2005, HOSTED BY THE EC. THE QUAD DISCUSSED THE STATUS OF THE TEXT NEGOTIATIONS, SEPARATE US-EC AND CANADIAN PROPOSALS FOR THE ARTICLE ON MODIFICATIONS AND RECTIFICATIONS TO COVERAGE AND AN INFORMAL US SUBMISSION ON A NUMBER OF THE REMAINING TEXT ISSUES. IN ADDITION, THE QUAD DISCUSSED THE ISRAELI OFFSETS ISSUE, HOW TO ADVANCE CHINA'S ACCESSION TO THE GPA, AND CHINESE TAIPEI'S ACCESSION.

INFORMAL MEETINGS OF THE COMMITTEE ON GOVERNMENT PROCUREMENT

13. (SBU) REVISION OF THE TEXT: THE COMMITTEE HELD INFORMAL DRAFTING SESSIONS FROM OCTOBER 10 THROUGH 14 ON THE REVISION OF THE GPA TEXT, WITH THE GOAL OF REACHING PROVISIONAL AGREEMENT ON THE NON- MARKET-ACCESS-RELATED PROVISIONS OF THE TEXT BY THE HONG KONG MINISTERIAL. AN INFORMAL U.S. SUBMISSION, WHICH INCLUDED THE RESULTS OF A SEPTEMBER 2005 BILATERAL WITH THE EC, PROVIDED THE BASIS FOR PROGRESS ON A NUMBER OF PROVISIONS, INCLUDING COMMERCIAL GOODS AND SERVICES, ELECTRONIC PROCUREMENT, TIME PERIODS, CONDITIONS FOR PARTICIPATION, AND DISCLOSURE OF INFORMATION. THERE WERE TWO OTHER SUBMISSIONS ON THE ARTICLE ON MODIFICATIONS AND RECTIFICATIONS TO COVERAGE: A JOINT U.S.-EC NON-PAPER AND A CANADIAN SUBMISSION.

14. (SBU) THE DISCUSSIONS HELPED NARROW DIFFERENCES AND REMOVE BRACKETS, AND GOOD PROGRESS WAS MADE IN A NUMBER OF AREAS. HOWEVER, FURTHER WORK AND MORE COMPROMISES WILL BE NEEDED TO REACH PROVISIONAL AGREEMENT ON THE NON-MARKET-ACCESS PROVISIONS. THE COMMITTEE DISCUSSED THE POSSIBILITY OF HOLDING ANOTHER MEETING BEFORE THE END OF THE YEAR TO FINALIZE THE TEXT; THE EC WAS THE STRONGEST ADVOCATE OF SUCH A MEETING. THE CHAIR INDICATED HE WAS PREPARED TO CALL ANOTHER MEETING THIS YEAR IF THE TEXT COULD BE FINALIZED; HOWEVER, HE QUESTIONED WHETHER A SINGLE MEETING WOULD BE SUFFICIENT TO RESOLVE ALL THE DIFFERENCES. THE ALTERNATIVE WOULD BE TO ALLOW THE DRAFTING WORK TO CONTINUE INTO THE NEXT YEAR. THE UNITED STATES INDICATED IT WOULD SUPPORT ANOTHER MEETING THIS YEAR ONLY IF IT WERE CLEAR THAT AGREEMENT COULD BE REACHED ON ALL THE OUTSTANDING ISSUES; BUT LIKE THE CHAIR, IT WAS SKEPTICAL THAT COULD BE ACCOMPLISHED IN ONE MEETING. THE CHAIR WILL CONSULT WITH

DELEGATIONS ON WHETHER TO CALL ANOTHER MEETING.

ISRAELI OFFSETS

15. (SBU) AT THE REQUEST OF ISRAEL, THE U.S. DELEGATION HELD A BILATERAL DISCUSSION ON ISRAEL'S PLANS TO REQUEST ANOTHER EXTENSION REGARDING ITS OBLIGATION TO REDUCE ITS LEVEL OF OFFSETS. (NOTE: IN DECEMBER 2004, THE COMMITTEE AGREED TO A ONE-YEAR EXTENSION OF ISRAEL'S OBLIGATION TO REDUCE ITS LEVEL OF OFFSETS FROM 30 PERCENT TO 20 PERCENT ON JANUARY 1, 2005, AS CALLED FOR BY ISRAEL'S GPA COMMITMENTS.) ISRAEL INFORMALLY CIRCULATED A DRAFT OFFER WITH NEW ISRAELI MARKET ACCESS COMMITMENTS, INCLUDING A NEW TIME TABLE FOR REDUCING ITS USE OF OFFSETS. UNDER THE DRAFT OFFER ISRAEL WOULD REDUCE ITS OFFSETS TO 15 PERCENT IN 2015, AND THEN CONSULT WITH THE PARTIES ON THE LEVEL OF OFFSETS. ISRAEL SAID IT WAS PREPARED TO IMPLEMENT ITS NEW MARKET ACCESS COMMITMENTS ON JANUARY 1, 2006 AS COMPENSATION FOR THE MODIFICATION OF ITS OFFSET COMMITMENT. THE UNITED STATES POINTED OUT THAT IT HAD REGARDED LAST YEAR'S EXTENSION AS A ONE-TIME EVENT AND THAT IT HAD NOT HAD SUFFICIENT TIME TO REVIEW AND CONSULT WITH REGARD TO ISRAEL'S DRAFT OFFER AND NEW OFFSET TIME TABLE. THE UNITED STATES ALSO STRONGLY REITERATED ITS POSITION THAT OFFSETS ARE A TRANSITIONAL MEASURE AND NOT A PERMANENT ELEMENT OF ANY PARTY'S COVERAGE AND URGED ISRAEL TO PROVIDE A PROPOSAL THAT PHASES THEM OUT. BASED ON CONSULTATIONS WITH THE UNITED STATES AND OTHER QUAD COUNTRIES, ISRAEL ELECTED TO NOT FORMALLY SUBMIT ITS DRAFT OFFER. INSTEAD, ISRAEL INDICATED IT WOULD PREPARE A DRAFT DECISION FOR THE COMMITTEE TO EXTEND ITS OFFSET OBLIGATION UNTIL THE CONCLUSION OF THE MARKET ACCESS NEGOTIATIONS UNDER THE GPA OR A FIXED PERIOD. INFORMALLY, ISRAEL INDICATED IT WOULD SEEK A CONSENSUS FROM THE PARTIES ON A NEW PROPOSAL BEFORE SUBMITTING IT TO THE COMMITTEE FOR ACTION BEFORE THE END OF THE YEAR.

JORDAN ACCESSION

16. (SBU) THE KINGDOM OF JORDAN BRIEFED THE UNITED STATES INFORMALLY ON THE STATUS OF ITS ACCESSION TO THE GPA. JORDAN IS CURRENTLY ENGAGED IN DOMESTIC CONSULTATIONS TO IMPROVE ITS MARKET ACCESS OFFER. OF PARTICULAR INTEREST TO THE UNITED STATES, JORDAN IS WORKING TO INCLUDE ITS MINISTRIES OF DEFENSE AND INTERIOR IN ITS GPA COVERAGE. JORDAN IS AIMING TO MAKE AN IMPROVED MARKET ACCESS OFFER TO THE COMMITTEE BEFORE THE END OF THE YEAR. HOWEVER, JORDAN REPORTS INCREASING DOMESTIC RESISTANCE FROM CERTAIN INDUSTRIES TO ITS ACCESSION TO THE GPA.

CHINESE TAIPEI ACCESSION

17. (SBU) THE UNITED STATES HELD AN INFORMAL MEETING WITH THE EC TO DISCUSS POSSIBLE MEANS OF MOVING FORWARD THE STALLED CHINESE TAIPEI ACCESSION TO THE GPA. THE UNITED STATES AND THE EC PROPOSED A TWO-STEP PROCESS THAT WOULD BEGIN WITH A COMMITTEE DECISION THAT GENERALLY ADDRESSES NOMENCLATURE ISSUES IN THE SAME MANNER AS THE WTO "BLUE BOOK" DIRECTORY OF MEMBERS. A SECOND COMMITTEE DECISION WOULD SPECIFICALLY ADDRESS CHINESE TAIPEI'S ACCESSION. THE US-EC PROPOSAL WAS GIVEN TO THE QUAD AND KOREA FOR THEIR COMMENTS; IT WAS ALSO GIVEN TO THE GPA CHAIR, WHO HAS BEEN ASKED TO FOLLOW UP WITH THE RELEVANT PARTIES.

INFORMAL BILATERAL WITH CHINA

18. (SBU) THE UNITED STATES HELD AN INFORMAL BILATERAL MEETING WITH THE DELEGATE FROM THE PEOPLE'S REPUBLIC OF CHINA TO DISCUSS THE ISSUE OF CHINA AND THE GPA. CHINA IS STILL STUDYING THE GPA AND THE PROS AND CONS OF ACCESSION TO IT. THE UNITED STATES OFFERED TO ASSIST CHINA'S EFFORTS AND TOLD THE CHINESE DELEGATE THAT THE UNITED STATES WOULD SOON SEND A LETTER TO BEIJING TO SET A DATE AND VENUE FOR THE TECHNICAL CONSULTATIONS TO WHICH CHINA HAD COMMITTED IN JULY 2005 IN THE JOINT COMMISSION ON COMMERCE AND TRADE. THE U.S. DELEGATION OFFERED TO PROVIDE ANY ASSISTANCE THAT MAY BE NEEDED AS CHINA PREPARES TO COMMENCE ITS GPA ACCESSION.

INFORMAL BILATERAL WITH THE GOVERNMENT OF JAPAN

19. (SBU) THE U.S. DELEGATION HELD, AT ITS REQUEST, AN INFORMAL BILATERAL DISCUSSION WITH JAPAN ON JAPAN RAILWAY - KYUSHU'S USE OF A GPA EXCEPTION FOR OPERATIONAL SAFETY OF TRANSPORTATION FOR CONSTRUCTION OF A RAILWAY STATION. THE UNITED STATES AGAIN REITERATED ITS CONCERN WITH THE APPROPRIATENESS OF JR-KYUSHU'S USE OF THAT EXCEPTION AND ASKED JAPAN WHEN IT WOULD PROVIDE A RESPONSE. THE GOJ DELEGATION SAID JAPAN WAS STILL LOOKING INTO THE ISSUE, AND UNDERTOOK TO PROVIDE A RESPONSE AS SOON AS POSSIBLE.

FORMAL COMMITTEE MEETING

10. (SBU) THE COMMITTEE HELD A FORMAL MEETING ON FRIDAY, OCTOBER 14, DURING WHICH THE CHAIR SUMMARIZED PROGRESS MADE DURING THE WEEK AND ENTERTAINED STATEMENTS BY ISRAEL CONCERNING THE CONTINUED IMPORTANCE OF ITS USE OF OFFSETS, JORDAN ON THE STATUS OF ITS PREPARATION OF A REVISED OFFER

IN ITS ACCESSION TO THE GPA, AND CHINA REGARDING ITS INTEREST IN ACCEDED TO THE GPA, EVEN THOUGH IT MADE NO COMMITMENT AS TO THE TIMETABLE FOR DOING SO. THE COMMITTEE ALSO DISCUSSED ADOPTION OF THE ANNUAL REPORT, SETTING A DEADLINE OF OCTOBER 30, 2005 FOR ANY EDITS OR ADDITIONS TO THE REPORT.

INFORMAL EXPLORATORY TALKS WITH SWITZERLAND

¶11. (SBU) THE U.S. DELEGATION HELD INFORMAL EXPLORATORY DISCUSSIONS ON THE POTENTIAL APPROACHES TO A GOVERNMENT PROCUREMENT CHAPTER IF NEGOTIATIONS ARE LAUNCHED ON A FREE TRADE AGREEMENT (FTA) BETWEEN THE UNITED STATES AND SWITZERLAND. THE SWISS DELEGATION INCLUDED ITS GOVERNMENT PROCUREMENT NEGOTIATOR AND FTA COORDINATOR. AS BOTH COUNTRIES ARE GPA MEMBERS, THEY AGREED THAT THE TEXT OF ANY FTA CHAPTER ON GOVERNMENT PROCUREMENT SHOULD INCORPORATE THE GPA'S PROVISIONS, INCLUDING THE CURRENT REVISION, AS WELL AS THE RESULTS OF THE MARKET ACCESS NEGOTIATIONS TO BE UNDERTAKEN IN 2006 UNDER THE GPA. THE ONLY MARKET ACCESS ISSUE THAT THE SWISS NOTED WAS THEIR INTEREST IN EXPANDED COVERAGE OF U.S. STATES, BUT THEY ALSO RECOGNIZED THE DIFFICULTY OF ADDING STATES. BOTH SIDES ACKNOWLEDGED THAT THEIR RESPECTIVE MARKET ACCESS COMMITMENTS WOULD NOT LIKELY GO BEYOND THOSE IN THE GPA, OTHER THAN PERHAPS WITH REGARD TO THRESHOLDS.

NEXT MEETING OF THE COMMITTEE

¶12. (SBU) THE NEXT COMMITTEE MEETING IS CURRENTLY SCHEDULED FOR THE WEEK OF FEBRUARY 6, 2006, UNLESS THERE IS A CONSENSUS TO HOLD ANOTHER MEETING BEFORE THE END OF THE YEAR TO GIVE PROVISIONAL AGREEMENT TO THE REVISION OF THE GPA TEXT. SHARK